

EXHIBIT C

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2 BY MR. KENNEDY:

3 Q. I'm showing you Exhibit-16.

4 From the metadata, this is October 8,

5 2010.

6 Does the top say, Business

7 idea description?

8 MR. DELINSKY: I object to

9 the use of this document on the

10 ground that it disaggregates the

11 document from its parent e-mail.

12 BY MR. KENNEDY:

13 Q. Does the top say, Business

14 idea description?

15 MR. DELINSKY: Same

16 objection.

17 BY MR. KENNEDY:

18 Q. Sir, did it state that?

19 A. The top of the document

20 states, Business idea description, yes.

21 Q. Have you seen this before?

22 A. I believe I have.

23 Q. All right. This says,

24 Requested for or on behalf of John

1 Mortelliti, correct?

2 A. It does.

3 Q. And then under summary
4 description and objectives, it states,
5 DEA expects CVS to prevent suspicious
6 orders from being filled out of our DCs.

7 That's distribution centers,
8 correct?

9 A. I see that.

10 Q. Do you agree with that
11 statement on behalf of CVS? That first
12 statement, DEA expects CVS to prevent
13 suspicious orders from being filled out
14 of our DCs, do you agree with that
15 statement on behalf of CVS?

16 A. I'm aware of the DEA
17 regulation that requires reporting of
18 suspicious orders. I'm also aware of the
19 DEA guidance that suspicious orders not
20 be shipped.

21 Q. Well, let me ask you this:
22 CVS wouldn't write that there unless they
23 believed it, would they?

24 A. I presume Mr. Mortelliti

1 about their feelings about Mr.
2 Mortelliti?

3 MR. DELINSKY: Object to
4 form.

5 THE WITNESS: Speaking in my
6 personal capacity, I can't say
7 that I really did.

8 BY MR. KENNEDY:

9 Q. All right. Next stated --
10 next thing stated -- so first states, DEA
11 expects CVS to prevent suspicious orders
12 from being filled out of our DCs.

13 Then it states, The current
14 IRR does not provide the proper
15 information to meet the DEA's needs.

16 Do you see that statement?

17 A. I do.

18 Q. Next it states, We need
19 controlled drugs to be monitored by
20 active ingredient. Currently, the
21 controlled drugs are monitored by item.
22 The IRR loses all order history when the
23 info on the item changes causing CVS to
24 be noncompliant with DEA expectations.

1 Did I read that right?

2 A. You read that correctly.

3 Q. Does CVS agree with this
4 statement of Mr. Mortelliti in October of
5 2010? Does CVS agree with that
6 statement?

7 MR. DELINSKY: Object to
8 form.

9 THE WITNESS: CVS does not
10 agree that it was not compliant
11 with DEA expectations.

12 BY MR. KENNEDY:

13 Q. At this point in time, Mr.
14 Mortelliti was working with the
15 suspicious order monitoring system and
16 the IRRs on a daily basis, was he not?
17 We just went through everything he does
18 with the IRR.

19 A. Yeah, I'm just trying to get
20 a sense -- is there a date on the
21 document?

22 Q. This is 10/8/10. And up
23 until this point in time, we've been
24 talking for the last 45 minutes, Mr.

1 Mortelliti is the one who is reviewing
2 the IRRs every day, correct?

3 A. I'm sorry, I'm looking for
4 the date on the document.

5 Q. There's no date. I'm
6 telling you to assume that this is
7 October 8 of 2010.

8 And as of this date, since
9 mid '09, Mr. Mortelliti is the one who
10 has been reviewing the IRRs on behalf of
11 CVS every day; is that true?

12 MR. DELINSKY: I object to
13 the form of the question. I
14 further renew my objection to the
15 fact that this document has been
16 disaggregated from its parent
17 e-mail, which would have supplied
18 context and information on date.

19 BY MR. KENNEDY:

20 Q. Am I right, sir? Can you
21 answer my question? Can you answer my
22 question?

23 A. My understanding is from
24 some point in 2009 through some point in

1 2010, Mr. Mortelliti was responsible for
2 reviewing the IRR report on a daily
3 basis.

4 Q. And in -- at this point in
5 time, in 2010, you were at a law firm,
6 you weren't working for CVS, correct?

7 A. Correct.

8 Q. And so we have Mr.
9 Mortelliti, who has been looking at the
10 IRRs, being responsible for the IRRs for
11 over a year now, and he thinks that CVS
12 is noncompliant with DEA expectations.

13 And you, who are working at
14 a law firm at this time, disagree; is
15 that -- is that true?

16 MR. DELINSKY: Object to
17 form.

18 BY MR. KENNEDY:

19 Q. Is that true, sir? You are
20 disagreeing -- on behalf of CVS, you're
21 disagreeing with the man who has been
22 reviewing this report every day when, in
23 fact, you were working at a law firm at
24 this point in time? You disagree?

1 MR. DELINSKY: Object to
2 form. Object to the use of this
3 document in its incomplete form as
4 it's currently being used.

5 THE WITNESS: I have set
6 forth the corporate position of
7 CVS with respect to this document,
8 which is that CVS does not agree
9 that it was not compliant with DEA
10 regulations.

11 BY MR. KENNEDY:

12 Q. And can you tell me what is
13 the -- you weren't there, so what is the
14 basis for CVS's position that Mr.
15 Mortelliti is wrong when he says that CVS
16 is noncompliant with DEA expectations in
17 October of 2010? What is the basis for
18 CVS's disagreement with its employee?

19 MR. DELINSKY: Object to
20 form. Object to the use of an
21 incomplete document.

22 THE WITNESS: Based on the
23 investigation that I have
24 undertaken in preparation for this

1 deposition, and based on the
2 systems and the positions of the
3 company, as I understand them, it
4 is CVS's position that CVS was not
5 noncompliant with DEA regulations.

6 I further don't know whether
7 or not Mr. Mortelliti is referring
8 to something that occurred for a
9 very brief period of time or more
10 extended period of time, or what
11 exactly he's referring to or what
12 the basis for his statement is.

13 BY MR. KENNEDY:

14 Q. Well, you don't know whether
15 this is a brief period of time.

16 You know, from your review
17 of the documents, that this problem and
18 this noncompliance continues for at least
19 a year, right? This is -- this is
20 occurring for a year past the date that
21 Mr. Mortelliti declares that CVS is
22 noncompliant, right? This happens --
23 this goes on for another year, does it
24 not, from your understanding?

1 A. To my understanding --

2 MR. DELINSKY: Object to
3 form. Object to the use of this
4 document. It's unfair, Mr.
5 Kennedy.

6 BY MR. KENNEDY:

7 Q. This goes on for another
8 year --

9 MR. KENNEDY: You cannot give
10 speeches. You can object and you
11 can instruct him not to answer,
12 but you cannot give speeches.
13 Please, let it stop. We are
14 limited in time. Let us move
15 forward.

16 BY MR. KENNEDY:

17 Q. What is the specific basis
18 for CVS's disagreement with its employee
19 that CVS is noncompliant with DEA
20 expectations as of October of '10? What
21 is your basis?

22 MR. DELINSKY: Object to
23 form. Object to the use of the
24 document.

1 THE WITNESS: CVS had a
2 system in place to detect
3 suspicious orders. CVS's position
4 is that that system was compliant
5 with DEA regulations.

6 BY MR. KENNEDY:

7 Q. And let me ask you this: Do
8 you think you know better, in a four-week
9 review, than Mr. Mortelliti back in 2010,
10 who had been reviewing the IRR for a
11 year?

12 MR. DELINSKY: Object to
13 form. Object to the use of the
14 incomplete document.

15 THE WITNESS: Mr. Mortelliti
16 is making statements here that I
17 don't fully understand the basis
18 for and what they're referring to.

19 Mr. Mortelliti is not a
20 lawyer. And it is CVS's position
21 that it had in place a system to
22 detect suspicious orders, and that
23 that system was compliant with DEA
24 regulations.

1 BY MR. KENNEDY:

2 Q. When you met with Mr.
3 Mortelliti, or when you talked to him
4 these several, two, three times, let's
5 say, did he tell you, I was wrong, I was
6 wrong when I filled out that business
7 idea description, I was wrong when I
8 filled it out and said that CVS was
9 noncompliant with DEA expectations? Did
10 he tell you he was wrong?

11 MR. DELINSKY: Object to
12 form.

13 THE WITNESS: Mr. Mortelliti
14 and I did not discuss this
15 particular document when I spoke
16 with him. I had not reviewed this
17 document at the time that I had
18 spoken to Mr. Mortelliti.

19 He didn't express to me, in
20 any capacity, that he believed
21 that the CVS system was not
22 compliant for any period of time.

23 BY MR. KENNEDY:

24 Q. After you received this

1 document, didn't you call up Mr.
2 Mortelliti again and say, Mr. Mortelliti,
3 John -- you were probably on a first name
4 basis -- John, what did you mean by this?
5 You're stating, in October of 2010, that
6 CVS is noncompliant with DEA
7 expectations. Didn't you call him up and
8 ask him about this?

9 MR. DELINSKY: Object to
10 form.

11 BY MR. KENNEDY:

12 Q. Did you call him and ask
13 him?

14 MR. DELINSKY: Object.
15 Object to form. Object to the
16 incomplete use of the document.
17 Object to the question to the
18 extent it calls for
19 attorney-client information.

20 To the extent you're able to
21 answer without disclosing
22 attorney-client communication, you
23 may answer. If you can't, you're
24 instructed not to answer.

1 THE WITNESS: I reviewed
2 this document --

3 MR. KENNEDY: I'm going to
4 object to the speeches.

5 But go ahead, please.

6 THE WITNESS: I reviewed
7 this document only very recently
8 and did not have an opportunity to
9 discuss it with Mr. Mortelliti.

10 BY MR. KENNEDY:

11 Q. When did you review it?
12 What day?

13 A. To the best of my
14 recollection, it was yesterday. It may
15 have been among some documents I saw on
16 Friday night.

17 Q. Let's go to the next box
18 down. Next box down under business
19 drivers, all right?

20 It states, We can be fined
21 or penalized by the DEA due to the
22 current environment.

23 Do you agree -- does CVS
24 agree with that statement by Mr.

1 Mortelliti?

2 A. I don't know what Mr.

3 Mortelliti is referring to there.

4 Q. You don't have any idea --

5 you don't think he means that we can be

6 fined for being noncompliant with DEA

7 expectations because our IRR is losing

8 all order history? You don't think he's

9 referencing the box above?

10 MR. DELINSKY: Object to

11 form.

12 THE WITNESS: Based on this

13 document, I'm unable to provide

14 corporate knowledge as to what Mr.

15 Mortelliti meant when he said

16 that.

17 MR. DELINSKY: Let's take a

18 break.

19 MR. KENNEDY: Sure.

20 VIDEO TECHNICIAN: The time

21 is 5:10 p.m. We're going off the

22 record.

23 - - -

24 (Whereupon, a brief recess